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# HOUSE BILL No. 1085

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 6-2.5; IC 25-26-20; IC 34-30-2-101.5.

**Synopsis:** Drug tax exemption and drug repository program. Provides a sales tax exemption for nonprescription drugs. Establishes the regional drug repository program to distribute donated drugs to nonprofit health clinics.

**Effective:** July 1, 2004.

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January 13, 2004, read first time and referred to Committee on Ways and Means.

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Introduced

Second Regular Session 113th General Assembly (2004)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2003 Regular Session of the General Assembly.

## HOUSE BILL No. 1085

A BILL FOR AN ACT to amend the Indiana Code concerning health.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 6-2.5-1-22.5 IS ADDED TO THE INDIANA  
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
3 [EFFECTIVE JULY 1, 2004]: **Sec. 22.5. (a) "Nonprescription drug"**  
4 **means a nonnarcotic medicine or a drug that is:**

- 5 (1) **sold without a prescription;**  
6 (2) **prepackaged for use by the consumer;**  
7 (3) **prepared by the manufacturer or producer for use by the**  
8 **consumer;**  
9 (4) **properly labeled; and**  
10 (5) **unadulterated;**

11 **under requirements of the state and federal governments.**

12 (b) **The term does not include herbal products, dietary**  
13 **supplements, botanical extracts, or vitamins.**

14 SECTION 2. IC 6-2.5-5-39 IS ADDED TO THE INDIANA CODE  
15 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
16 1, 2004]: **Sec. 39. Sales of nonprescription drugs are exempt from**  
17 **the state gross retail tax.**

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SECTION 3. IC 25-26-20 IS ADDED TO THE INDIANA CODE  
AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
JULY 1, 2004]:

**Chapter 20. Regional Drug Repository Program**

**Sec. 1. The definitions in IC 25-26-13-2 apply throughout this chapter.**

**Sec. 2. As used in this chapter, "nonprofit health clinic" means the following:**

- (1) A federally qualified health center (as defined in 42 U.S.C. 1396d(l)(2)(B)).
- (2) A rural health clinic (as defined in 42 U.S.C. 1396d(l)(1)).
- (3) A nonprofit health clinic that provides medical care to patients who are indigent, uninsured, or underinsured.

**Sec. 3. (a) The board may organize a voluntary regional drug repository program to collect and redistribute drugs to nonprofit health clinics.**

**(b) The board may enter into a voluntary agreement with any of the following to serve as a regional drug repository:**

- (1) A pharmacist or pharmacy.
- (2) A drug manufacturer.
- (3) A wholesale drug distributor.
- (4) A hospital licensed under IC 16-21.
- (5) A health care facility (as defined in IC 16-18-2-161).
- (6) A nonprofit health clinic.

**(c) A regional drug repository must hold a controlled substances registration issued under IC 35-48-3.**

**(d) A regional drug repository may not receive compensation for participation in the program.**

**Sec. 4. Unadulterated drugs, including a medication that has been returned under IC 25-26-13-25(i), may be donated without a prescription or drug order to the regional drug repository program by the following:**

- (1) A pharmacist or pharmacy.
- (2) A drug manufacturer.
- (3) A wholesale drug distributor.
- (4) A hospital licensed under IC 16-21.
- (5) A health care facility (as defined in IC 16-18-2-161).
- (6) A hospice.
- (7) A practitioner.

**Sec. 5. A drug that is given by a regional drug repository to a nonprofit health clinic may not be:**

- (1) sold; or

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(2) given to a patient except upon a practitioner's prescription or drug order.

**Sec. 6. (a) Except in cases of bad faith or willful misconduct, a person who donates a drug to the regional drug repository program and a nonprofit health clinic or practitioner who accepts or dispenses drugs under the program is not:**

- (1) subject to disciplinary action;
- (2) subject to prosecution in a criminal action; or
- (3) liable for damages in a civil action for a patient's injury, death, or loss;

**for matters related to the donation, acceptance, or dispensing of a drug under the program.**

**(b) Except in cases of bad faith or willful misconduct, a drug manufacturer is not:**

- (1) subject to prosecution in a criminal action; or
- (2) liable for damages in a civil action for a patient's injury, death, or loss;

**for the failure to transfer or communicate product or consumer information or the expiration date of a drug that was made by the drug manufacturer and donated under the program.**

**(c) Except in cases of bad faith or willful misconduct, a regional drug repository is not:**

- (1) subject to prosecution in a criminal action; or
- (2) liable for damages in a civil action for a patient's injury, death, or loss;

**related to the donation, acceptance, or dispensing of a drug under the program.**

**Sec. 7. The board may adopt rules under IC 4-22-2 to:**

- (1) establish standards and procedures for accepting, storing, and dispensing drugs donated under this chapter;
- (2) establish the types of drugs that may be donated; and
- (3) administer this chapter.

**SECTION 4. IC 34-30-2-101.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 101.5. IC 25-26-20-6 (Concerning drugs donated to a regional drug repository program).**

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